

Dettlinger, Carl

From: AQ Permits
Sent: Thursday, January 19, 2017 9:59 AM
To: Dettlinger, Carl; Truchan, JoAnn; Etzel, Sandra
Subject: FW: Title V Comments/AKJ Clairton, Bay Valley Foods, NRG Energy Center Pittsburgh
Attachments: 2017-01-18 AKJ Clairton -- Comments by Clean Air Council.docx; 2017-01-18 Bay Valley Foods -- Comments by Clean Air Council.docx; 2017-01-18 Bay Valley Foods -- CAC derived Emission Factors.xlsx; 2017-01-18 NRG Energy Pittsburgh -- Comments by Clean Air Council.docx

From: Chris Ahlers [mailto:cahlers@cleanair.org]
Sent: Wednesday, January 18, 2017 5:57 PM
To: AQ Permits <aqpermits@alleghenycounty.us>
Subject: Title V Comments/AKJ Clairton, Bay Valley Foods, NRG Energy Center Pittsburgh

Allegheny County Health Department:

In response to your notice dated December 13, 2016 relating to proposed Title V permits, the Clean Air Council is submitting the attached comments on the following proposed permits:

1. **AKJ Clairton LLC (0637)**
2. Bay Valley Foods, LLC (0079) (including Excel spreadsheet attachment)
3. NRG Energy Center Pittsburgh LLC (0022)

A representative of the Clean Air Council will appear at the public hearing at 6 pm this evening.

Thank you for your consideration of our comments.

Chris

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Comments by the Clean Air Council
Proposed Title V Operating Permit No. 0637
AKJ Clairton LLC (Applicant)
Allegheny County Health Department
Public Hearing: January 18, 2016

The Clean Air Council submits these comments regarding the draft Title V permit for AKJ Clairton LLC, proposed by the Allegheny County Health Department ("Department") dated November xx, 2016.

The Council is a non-profit environmental organization headquartered at 135 South 19th Street, Suite 300, Philadelphia, Pennsylvania, 19103. The Council maintains an office in Pittsburgh. For more than 40 years, the Council has worked to improve air quality across Pennsylvania. The Council has members throughout the Commonwealth who support its mission to protect everyone's right to breathe clean air, including members in Allegheny County.

AKJ Clairton LLC filed its Title V permit application for the Clairton facility ("the facility") on August 17, 2012. On or about December 13, 2016, the Department published notice of the proposed Title V permit and set a deadline of January 18, 2016 for the public comment period. That is also the date for the public hearing.

1. Expiration of Minor Source Operating Permit on December 28, 2011 and Failure to Renew Minor Source Operating Permit.

Based on available information and documents, it appears that the facility did not have a valid minor source operating permit for over seventh months after its permit expired on December 28, 2011, and has not renewed it since that time.

On March 29, 2002, the Department granted a minor modification installation permit. On December 29, 2006, the Department granted a minor source operating permit, which was to expire by its terms on December 28, 2011. On August 17, 2012, the facility submitted an application for a Title V Operating Permit, based on the fact that its operations support the operations of the U.S. Steel facility, a major source located at the same site. In November 2016, the Department prepared a draft Title V Operating Permit, which is the subject of this comment.

For over five years, the facility has operated without either a minor source operating permit or a Title V operating permit, following the expiration of the minor source operating permit on December 28, 2011. Accordingly, the Department is incorrect in asserting that the

facility is "in compliance with all applicable Federal, State and County regulations." *See* Technical Support Document dated November 22, 2016, page 3.

Any decision to subject the facility to the Title V program does not excuse such noncompliance, because this facility is operated by a different company and requires a minor source operating permit in its own right. In an unusual situation such as this, a facility can be subject to multiple requirements.

On page 4 of the proposed Title V permit, the Department states that "[t]he facility is considered a major source based on operating, managing or supporting a major source facility: U.S. Steel (Clairton)." Technically, it may be more appropriate to substitute the language "is subject to the Title V program" in place of the language "considered a major source."

It would be helpful to have additional clarification from the Department regarding the relationship between the major source operating program and the minor source operating program, in a situation such as this one.

2. **Deletion of Permit Language Requiring Records Demonstrating That "All Applicable Requirements are Met."**

The proposed Title V permit carries over many of the terms and conditions of the expired minor source operating permit. But the Department deleted an important term, which should be reinserted. The expired minor source operating permit contained the following requirement:

The permittee shall keep and maintain sufficient records to demonstrate compliance with the requirements of this permit. ***Such records shall clearly demonstrate that all applicable requirements are met.*** (§2105.10.c; §2103.12.j). (emphasis added).

Minor Source Operating Permit #0637 dated December 29, 2006, page 24. But the proposed draft Title V permit deletes this requirement, and replaces it with the following requirement:

The permittee shall keep sufficient records on a daily basis to demonstrate compliance with Conditions V.A.1.a.1), V.A.1.a.2), V.A.1.a.3), V.A.1.b above. [IP 0637-I001; §2103.12.i].

Proposed Title V Operating Permit #0637 dated November xx, 2016, page 24.

The result is that the Department deleted the language requiring that "[s]uch records shall clearly demonstrate that all applicable requirements are met."

It is possible that the language was deleted under the rationale that "applicable requirements" means one thing in a minor source operating permit and a different thing in a Title V operating permit, and that there are no "applicable requirements" for this facility under the Title V program. That rationale would be incorrect.

The definition of “applicable requirement” in EPA's regulations includes revisions to a state implementation plan that have been approved by EPA:

Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in part 52 of this chapter.

40 CFR 70.2 (definitions) (emphasis added).

The Pennsylvania state implementation plan includes a requirement to take reasonable action to prevent fugitive air contaminants from becoming airborne. 40 CFR 52.2020(c)(2). This requirement is located in Section 2105.49 of the Department's Article XXI regulations. The facility is subject to this requirement. *See* Title V application dated August 17, 2012, page 14. *See also* Proposed Title V Operating Permit #0637, page 21 (Site Level Terms and Conditions IV(23) (“Fugitive Emissions”). *See also* Minor Source Operating Permit #0637, pages 21-22 (Site Level Terms and Conditions IV(22) (“Fugitive Emissions”).

In addition to this requirement, the facility is subject to at least five other “applicable requirements,” within the meaning of the Title V program. *See* Title V application, page 14 (Part V – Applicable Requirements) (citing Sections 2104.01.1, 2104.05, 2105.50, 2108.01.c, and 2105.12.a). The following chart sets forth the correspondence between these sections of the regulations and the state implementation plan:¹

| Section of Regulations in Article XXI | Title/Subject | CFR Citation |
|---------------------------------------|---|----------------------|
| 2104.01 | Visible Emissions | 40 CFR 52.2020(c)(2) |
| 2104.05 | Materials Handling | 40 CFR 52.2020(c)(2) |
| 2105.12 | Volatile Organic Compound Storage Tanks | 40 CFR 52.2020(c)(2) |
| 2105.49.a, .b | Fugitive Emissions | 40 CFR 52.2020(c)(2) |
| 2105.50 (except paragraph .50.d) | Open Burning | 40 CFR 52.2020(c)(2) |
| 2108.01.c | Breakdowns | 40 CFR 52.2020(c)(2) |

Consequently, the Department should re-insert the language “[s]uch records shall clearly demonstrate that all applicable requirements are met,” back into the draft permit.

¹ In contrast, one requirement that the facility asserted was an “applicable requirement” is not in the state implementation plan. *See* Title V application, page 14 (referring to Section 2104.04, prohibiting malodorous matter from being perceptible beyond facility boundaries). *See* 40 CFR 52.2020(c)(2) (not listing this requirement).

The Council reserves the right to assert future comments or objections, as it gathers additional information.

Thank you for your consideration of the comments of the Council.



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